

EXHIBIT 18

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

WINDSOR SECURITIES, LLC

Plaintiff,

Case No.

-against-

16-cv-01533

ARENT FOX, LLP and JULIUS

(GBD)

ROUSSEAU, III,

Defendants.

-----X

October 4, 2017

9:32 a.m.

Deposition of DARIN T. JUDD, held at
the offices of Foley & Lardner LLP, 90 Park
Avenue, New York, New York, pursuant to Subpoena,
before Mildred Cassese, a Registered Professional
Reporter and Notary Public of the State of
New York.

Computer Reporting NYC Inc.

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BY: PETER N. WANG, ESQ.

ADAM G. PENCE, ESQ.

ALSO PRESENT:

JULE ROUSSEAU, ARENT FOX

HUNTER T. CARTER, ARENT FOX

STEVEN PRUSKY

DMITRY ZVONKOV, VIDEOGRAPHER

IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for the respective parties herein, that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom the within deposition was taken.

1 *Judd*

2 communication between and my client, so I can't
3 answer. It's attorney-client privilege.

4 Q. Well, you earlier said no. I
5 assume -- whether or not you had -- whether he
6 consulted you from time to time; you said no.

7 A. I should have said that that was
8 attorney client privilege, because that was a
9 communication between me and my client.

10 Q. Let's come to the time when Mr. Prusky
11 first contacted you, I think you said it was
12 April 2014 after the interim award was issued,
13 correct, sir?

14 A. That is correct.

15 Q. At the time that he had contacted you,
16 had you ever, previous to that, ever been involved
17 this any litigation involving the -- what is known
18 as the life settlement business?

19 A. No.

20 Q. You know what life settlement is now,
21 don't you?

22 A. I do, yes.

23 Q. Okay. But you had never had any case
24 involved with that?

25 A. I had not.

1

Judd

2 privilege communication.

3

Q. Okay. By the way, just so we're clear, you'll assert privilege whenever you choose to or Mr. Frank chooses to on your behalf -- again, I'm not going to argue with you. We're just trying to make a record here of questions and then your responses to it.

9

So you'll understand from my silence --

11

MR. WANG: And, perhaps, I should address this to Mr. Frank, I don't accede necessarily to the implication of privilege. We're just going to move on to try to make progress.

16

Q. All right, do you understand that?

17

A. I do, yes.

18

Q. Okay.

19

So you had no experience in life settlement.

21

Had you had any experience in premium finance, that is, life insurance premium financing?

24

A. No.

25

Q. Had you had any experience of that at

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Judd

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I'm not agreeing with your statements on the record, but I don't want to impair this deposition. I want you to continue with the deposition, please.

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MR. WANG: Let me show you a document which we will have marked as the next exhibit, and it's an e-mail from you to Mr. Wood. There's no Bates stamp on it.

10

11

These were produced without the Bates stamps -- they were produced --

12

MR. PENCE: Natively, I believe.

13

14

MR. WANG: -- natively, whatever that means.

15

16

17

(Judd Exhibit 6, E-mail dated 9/26/2014 from Mr. Judd to Mr. Wood, marked for identification, as of this date.)

18

BY MR. WANG:

19

20

Q. That's a letter that you sent to Mr. Wood on September 26th, correct?

21

A. Yes. It's an e-mail.

22

23

Q. I think e-mails qualify as letters.

24

25

And you were, quote, authorized to provide a global settlement offer for Barnes, Bitter, Collins and Acker.

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Judd

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Do you see that?

3

A. I do, yes.

4

Q. And that was a global settlement of a
5 million five, right, that's what you --

6

A. Yeah. Yes.

7

Q. Now before you sent this letter you
8 made reference to prior phone "discussions,"
9 plural.

10

Do you see that in the third
11 paragraph?

12

A. I do, yes.

13

Q. And you see Mr. Wood had apparently
14 told you that he thought he would have a similar
15 result in the Collins and Acker matters, similar
16 to what had happened in the Bitter arbitration,
17 correct?

18

A. He did say that to me, yes.

19

Q. You had -- and you disagreed with him?

20

A. I did. And so did the California
21 Supreme Court.

22

Q. Through the Vandenberg case?

23

A. Yes.

24

Q. In other words -- so you had -- when
25 you took over this case, one of the things you did

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Judd

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Q. Did you tell him -- did you tell him that the \$650,000 separate offer from Barnes/Bitter was on the table -- remained on the table?

A. I made the global settlement offer.

Q. That was instead of the individual offer for Barnes/Bitter, was it not?

A. Had he accepted this, it would have resolved Barnes, Bitter Collins and Acker.

Q. But he didn't accept this?

A. He did not.

Q. In fact, he told you that he couldn't possibly accept a global offer, because that would be unethical.

A. I believe he did say that.

Q. Okay. Had you considered that before he said that to you; that is, that you couldn't do that?

DI **MR. FRANK:** Same objection, same direction.

Q. Had you heard from Mr. Rousseau that Mr. Prusky had tried that tack earlier; that is, the idea of a global settlement, but that that was not able -- that was not able to be accomplished?

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Judd

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Coppock, you know, from what to what?

3

4

5

What was the settlement going to be at the beginning of the time you took over the case versus what you ultimately settled the case for?

6

DI **MR. FRANK:** Same objection, same direction.

7

8

9

I also object to form, because your predicate is in error.

10

11

12

Q. The \$12,000 sum, what had been the demand for Coppock on behalf of Coppock by Mr. Wood?

13

14

15

A. I'd have to go back and look, but it was -- I'd have -- it was well in excess of \$12,000.

16

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21

Q. And how much in excess?

A. I believe that there was an e-mail that he sent to us following the court granting the summary judgment motion in December, and I'd have to look at that number, but it was significantly more.

22

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25

His agreement to go to \$12,000 was a fraction of what he was asking for.

Q. Did you understand -- did Mr. Wood indicate, in words or substance, that the fact

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Judd

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that you had gone to court on Acker and Collins

3

and lost, now upped the amount that he was seeking

4

on Coppock and Stamatov?

5

A. He did, until we notified him that we

6

would conduct a public sell for the sell of the

7

policy.

8

Q. I understand that. But his position

9

was that whatever he was prepared to settle that

10

earlier, the amount had gone up because of what

11

happened in Collins and Acker?

12

MR. FRANK: Objection as to form.

13

A. I don't believe that's what he had

14

said.

15

Q. So your view was that for Mr. Coppock,

16

that the demand was significantly higher than

17

\$12,000?

18

DI

MR. FRANK: Objection.

19

Same objection, same direction.

20

Q. That's your view --

21

MR. FRANK: Objection.

22

A. He wrote it -- in an e-mail.

23

DI

MR. FRANK: Objection.

24

Same objection, same direction.

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MR. WANG: Well, let me show you what

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Judd

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best of our ability today.

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MR. WANG: We'll complete the deposition any way, but just so we're clear, I don't think you have the right to switch the burden of that determination, Mr. Frank, of what should or should not be clawed back.

That's your business to do when it was time to do it, which was during the period when you said hold off on the review, we're going to do -- you weren't involved with that, Ms. Milrood was, although you did send an e-mail that said there were no deficiencies in your production.

MR. FRANK: There are no deficiencies.

You're refusing to identify for us now the additional documents you mentioned in the beginning of your statement.

The record reflects that.

MR. WANG: Okay. Let's have the reporter mark an e-mail from Mr. Judd to Mr. Wood, September 15, 2015.

(Judd Exhibit 16, E-mail dated September 15, 2015 from Mr. Judd to

1

Judd

2

Mr. Wood, marked for identification, as of
this date.)

3

4

Q. That's a letter you sent to Mr. Wood
on or about that date, sir?

5

6

A. Yes.

7

Q. And you made an offer of \$40,000 on
Stamatov case?

8

9

A. Correct.

10

Q. And ultimately it settled for 50 --
I'm sorry, what did it settle for?

11

12

A. 12.

13

Q. 12. So you offered 40 and it went
down to 12?

14

15

A. Correct.

16

Q. How did that happen?

17

A. We notified Mr. Wood that we would
conduct a public sell of the insurance policy,
because the insured was still not -- was still
alive, and based on that he accepted the \$12,000.

18

19

20

21

Q. He accepted a lower amount?

22

A. Yes.

23

Q. So you were prepared to pay more, but
then you reduced it to 12?

24

25

A. This was when -- well, yeah, the

1

Judd

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demand, after we made the determination that we would do a public sell, he accepted 12.

3

4

Q. What did he do with the -- you were offering 40?

5

6

A. He rejected this.

7

8

Q. He rejected it. And ultimately only got 12. Is that what you're saying?

9

A. Correct.

10

11

Q. When did you first make the threat of starting the foreclosure sale?

12

13

14

A. The public sale -- uhm -- it wasn't a threat -- we had -- eval -- well, what you are asking for calls for attorney-client work product.

15

Q. When?

16

A. Yes.

17

18

Q. When did you first tell Mr. Wood that you were going to conduct a public sale?

19

20

21

22

A. Uhm -- I don't know if it was the first time, but the time that I can recall is after the summary judgment was granted in his favor in December. We told him after.

23

Q. December 2015?

24

A. Correct.

25

We told him after that that we would

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Judd

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conduct public sales on the Coppock policy and the
Stamatov policy.

3

4

I don't know if that was the first
time that we had that discussion with him directly
or not.

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6

7

Q. Was there anything that would have
prevented you from conducting those sales at an
earlier point in time?

8

9

10

A. Yeah.

11

Because it's a public sale, the --
it's open to the public, and the Houchins group
were saying they would purchase the policies, and
we would lose our investment.

12

13

14

15

Q. And what changed -- why was that not a
risk after the -- why was that not a risk, that
is, that the Houchins group is going to buy them
after the Collins and Acker summary judgment
opinions?

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DI **MR. FRANK:** Objection. Same
objection, same direction.

21

22

Q. You testified that you -- that
Mr. Houchins -- you testified that you were
concerned that Mr. Houchins was going to buy in to
the sale if you conducted it earlier.

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Judd

proceeding. Total number of disks was
three.

We're off the record at 2:18.

(Time Noted: 2:18 p.m.)

DARIN T. JUDD

Subscribed and sworn to before me
this _____ day of _____, 2017.

(Notary Public) My Commission Expires:

C E R T I F I C A T E

STATE OF NEW YORK)

: SS.

COUNTY OF NEW YORK)

I, MILDRED CASSESE, a Registered Professional Reporter and a Notary Public within and for the State of New York, do hereby certify that the foregoing deposition of DARIN T. JUDD was taken before me on the 4th day of October 2017;

That the said witness was duly sworn before the commencement of his testimony; that the said testimony was taken stenographically by me and then transcribed.

I further certify that I am not related by blood or marriage to any of the parties to this action or interested directly or indirectly in the matter in controversy; nor am I in the employ of any of the counsel in this action.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of November 2017.



MILDRED CASSESE, RPR

October 4, 2017

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CERTIFIED (CE): None.

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NAME OF CASE: Windsor Securities, LLC v. Arent Fox, LLP

DATE OF DEPOSITION: October 4, 2017

WITNESS: Darin T. Judd

If there are any corrections to your deposition, indicate them on this sheet of paper, give the change, page number, and line number.

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Darin T. Judd

Subscribed and sworn to before me

this _____ day of _____, 2017.

(Notary Public)

My Commission Expires: